

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHRISTOPHER SCOTT ATKINSON,

Plaintiff,

v.

ORDER

14-cv-736-bbc

FELIPA MACKINNON,
JOSEPH WARNKE and
CRYSTAL SCHWERSENSKA,

Defendants.

On January 7, 2015, I granted plaintiff Christopher Scott Atkinson leave to proceed in forma pauperis on claims that defendants Felipa Mackinnon, Joseph Warnke and Crystal Schwersenska, employees at the Federal Correctional Institution in Oxford, Wisconsin, violated plaintiff's rights under the First Amendment; the Fifth Amendment; and the Religious Freedom Restoration Act, 42 U.S.C. §§ 2000-1(a)-(b). I directed the United States Marshal to serve defendants. Now plaintiff has filed a motion for entry of default pursuant to Fed. R. Civ. P. 55(a). The motion will be denied.

Under Fed. R. Civ. P. 12(a)(3), when officers or employees of the United States are sued in an individual capacity, they must file their answers to the complaint within 60 days after they have been served or service has been made on the United States Attorney, whichever is later. In this case, the United States Attorney was served on January 13, 2015

and the individual employees were served a day later, on January 14, 2015, which meant that defendants' answer was due on March 16, 2015. On March 11, 2015, defendants moved for and were granted an extension until April 15, 2015 to file their answer. Defendants filed a timely answer on April 15, 2015. Because defendants have not failed to plead or otherwise defend this case within the time allowed, plaintiff is not entitled to an entry of default.

ORDER

IT IS ORDERED that plaintiff Christopher Scott Atkinson's motion for entry of default, dkt. #29, is DENIED.

Entered this 22d day of April, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge